

AG Contract No. KR95-2192-TRN
ADOT ECS File No. JPA 95-172
Project No.: ER-PHX-0(3)P
TRACS No.: SE100 02C
Project: 19th Avenue @ Salt River

INTERGOVERNMENTAL AGREEMENT
BETWEEN

73243 THE STATE OF ARIZONA
AND
THE CITY OF PHOENIX

THIS AGREEMENT is entered into 27 November, 1995,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
CITY OF PHOENIX, acting by and through its MAYOR and CITY
COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 and 28-112 to enter into this agreement and has
by resolution, a copy of which is attached hereto and made a
part hereof, resolved to enter into this agreement and has
delegated to the undersigned the authority to execute this
agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes
Section 48-572 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has
authorized the undersigned to execute this agreement on behalf
of the City.

3. Congress has authorized appropriations for, but not
limited to, the construction of streets and primary, feeder and
farm-to-market roads; the replacement of bridges; the
elimination of roadside obstacles; and the application of
pavement markings.

4. Such project within the boundary of the City has been
selected by the City; the field survey of the project has been
completed; and the plans, estimates and specifications have
been prepared and, as required, submitted to the Federal
Highway Administration (FHWA) for its approval.

NO. <u>20320</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>11/27/95</u>
<u>Jane of the Hill</u> Secretary of State
By <u>Vicky V. Greenwood</u>

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The City, in order to obtain federal funds for the construction of the project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA.

7. The work embraced in this agreement, to be administered by the City, and the estimated costs are as follows: Restoration of Bank Protection.

Estimated Construction Cost (incl. 15% CE cost)	\$ 349,600.00
Federal Aid Funds @ 94.3%	\$ 329,673.00
City Funds @ 5.7%	\$ 19,927.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the City with the aid and consent of FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the City, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the City. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur any expenditure in excess.

2. Prior to the solicitation of bids, the City shall encumber funds in the amount determined to be necessary to match federal funds in the ratio required.

3. The City shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the City.

6. Upon completion of construction, the City shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

7. The City shall mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

8. By such regulation as it may by ordinance provide, the City shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

9. The City will provide personnel to supervise construction. The FHWA will participate in the cost of construction supervision provided by the City at the pro rata established in the Project Agreement for up to 15 percent of the cost of construction. Construction supervision costs not participated in by FHWA shall be borne by the City. All construction project change orders are to be copied to the State.

10. The City will complete the project in accordance with approved plans and specifications and the requirements of the relevant State and federal statutes, rules, or regulations. In the event the City fails to comply with the plans, specifications or any relevant State or federal statutes, rules, or regulations, the City shall hold the State harmless from any claims or costs incurred by the State as a result of the City's failure to comply.

11. State employees may perform any inspections of the project or audit any books or records of the City in order for the State to satisfy itself that the monies on the project have been spent and the project completed in accordance with the plans and specifications, statutes, rules, and regulations of the State and federal government.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, AZ 85007

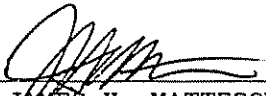
City of Phoenix
City Manager
200 W. Washington 5th floor
Phoenix, AZ 85003-1611

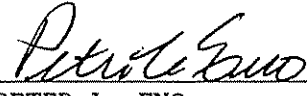
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF PHOENIX, A Municipal
Corporation, Frank Fairbanks,
City Manager

STATE OF ARIZONA
Department of Transportation

By 
JAMES H. MATTESON, P.E.
Director, Street
Transportation

By 
PETER L. ENO
Contract Administrator

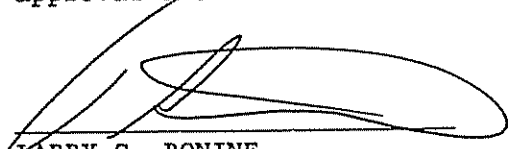
ATTEST:

By 
VICKY MIEL
City Clerk

RESOLUTION

BE IT RESOLVED on this 19th day of September 1995, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Phoenix for the purpose of defining responsibilities for the design, construction and maintenance of a river bank protection on 19th Avenue at the Salt River.

Therefore, authorization is hereby granted to draft said agreements which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


for LARRY S. BONINE
Director

APPROVAL OF THE PHOENIX CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF PHOENIX, and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona and the City Charter.

DATED this 30th day of October, 1995.

Michael D. Heine

City Attorney

CITY OF PHOENIX, ARIZONA
REQUEST FOR COUNCIL ACTION

Complete this form per O.P. 1.906 and A.R. 4.11.

ACTION REQUESTED Formal Action: Bid Award ☐ License Application ☐ Other ☐
Ordinance ☐ Resolution ☒ Emergency Clause? ☐ (Y/N)

SUBJECT COUNCIL DISTRICT NOS. 7 AND 8 AGREEMENT BETWEEN ADOT AND THE
CITY OF PHOENIX FOR RESTORATION OF THE BANK PROTECTION AT 19TH
AVENUE AND THE SALT RIVER
(NOTE: Include the word DISTRICT or CITYWIDE in Subject.)

PREPARED BY Name: Daniel P. Matthews Phone: 2-6871 WP Doc: rca9512.w61
Backup Material being sent under separate cover? (Y/N) ☐

RECOMMENDED BY Department Name: Street Transportation
Date Prepared: 10/13/95 Div. Approval: Andrew O. Almaraz
Req. Agenda Date: 11/01/95 Dept Approval: James H. Matteson P.E.
If prepared for a different department:
Dept. Name/Approval: _____

BID AWARD/ FORMAL ACTION Bid Bond Required? ☐ Performance Bond Required? ☐
Submitted By Low Bidder? ☐ Amount? \$ _____
Contract Required? ☐ Requisition No. _____
Contract Amendment? ☐ Current Contract No: _____
Approved by: Ord. ☐ FA ☐ on Date: _____

BUDGET INFORMATION \$ - 0 - To Be Encumbered? N (Y/N)
Fiscal Year? _____
Source of Funds: Arizona Highway User Revenue Fund
Index Code (s): BR-931618
Subobject(s): 4702

CITY MANAGER'S OFFICE

Approved by: George Britton C.M Control Number 32

CITY CLERK DEPARTMENT

RECORDS SECTION File Number: F-6123/2766 RCA Number: 16065
Ordinance Number: _____ Resolution Number: 18591
AGENDA ACTION This item was: Adopted
Contract Number (if applicable): 73243
Comments: _____

COUNCIL SUPPORT Agenda Date: 11/1/95 ITEM NUMBER: 77

COUNCIL DISTRICT NOS. 7 AND 8
AGREEMENT BETWEEN ADOT AND
THE CITY OF PHOENIX FOR
RESTORATION OF THE BANK
PROTECTION AT 19TH AVENUE AND
THE SALT RIVER

Request to authorize the City Manager to enter into an agreement with the State of Arizona through its Department of Transportation (ADOT) for the restoration of the bank protection at 19th Avenue and the Salt River.

The City of Phoenix will be responsible for the construction administration of this project. The City, in order to obtain Federal Funds for this project, is willing to provide City Funds to match Federal Funds in the ratio required or as finally fixed and determined by the City and Federal Highway Administration (FHWA). Upon completion, the City will provide for the proper maintenance of the improvements.

The State shall submit a program containing this project to the Federal Highway Administration (FHWA) with the recommendation that it be approved for construction.

This Federal-Aid Project qualifies for Federal Funds for bank protection restoration. The estimated total cost of the project is \$349,600.00. The cost breakdown is as follows:

Estimated Construction Cost	\$349,600.00
Federal Funds	329,673.00
City of Phoenix Funds*	19,927.00

*Funds are available from the Arizona Highway Users Revenue Fund.

JHM:JDH:DPM:rca9512.w61
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STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025

TELECOPIER : 542-4085

GRANT WOODS
ATTORNEY GENERAL


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR95-2192-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 21st day of November, 1995.

GRANT WOODS
Attorney General


JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:ggt
8957G/72